

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:18-CR-96-BO

UNITED STATES OF AMERICA       )  
  )  
v.    )  
  )  
RAYMOND ALAN GRIFFIN            )


ORDER

This cause comes before the Court on defendant's *pro se* motion for relocation. [DE 31]. Defendant, who is proceeding in this matter with stand-by counsel, asks to be relocated during his pretrial detention, arguing that the conditions at the Albemarle County Jail are not conducive to preparing his defense to the pending charges. Defendant cites his being placed in a two-man cell in a loud and boisterous environment. Defendant requests placement in a facility with a law library and single cells, and in addition to a facility which allows for more convenient access to his stand-by counsel. Defendant cites equal protection and due process as well as the denial of access to courts.

Defendant was remanded by the magistrate judge to the custody of the Attorney General or his designated representative pending trial. [DE 26]. Defendant has failed to demonstrate in this criminal proceeding that his transfer to another facility is necessary. Specifically as to his claim that he is being housed too distant from his stand-by counsel, defendant has failed to demonstrate any prejudice. *See, e.g., United States v. Lucas*, 873 F.2d 1279, 1280 (9th Cir. 1989) (detention two hours from location of counsel did not amount to active or constructive denial of right to counsel). As to his claims that he has been denied access to courts, equal protection, or due process, those claims are more appropriately considered under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).

Accordingly, defendant's request to be relocated pending trial is DENIED. Defendant's claims arising out of the alleged denial of access to courts, equal protection, or due process are DISMISSED WITHOUT PREJUDICE. The clerk is DIRECTED to provide to defendant the appropriate forms for filing a *Bivens* action.

SO ORDERED, this 5 day of June, 2018.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE